SUPREME COURT OF THE UNITED STATES

MERCILYN BUCHANAN ETC. *v.* STANSHIPS, INC., ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 87-133. Decided March 21, 1988

JUSTICE MARSHALL, dissenting.

I continue to believe that it is unfair to litigants and damaging to the integrity and accuracy of this Court's decisions to decide a case summarily without the benefit of full briefing on the merits of the question decided. See *Commissioner* v. *McCoy*, 484 U. S. ——, —— (1987) (MARSHALL, J., dissenting); *Montana* v. *Hall*, 481 U. S. ——, —— (1987) (MARSHALL, J., dissenting). The Rules of this Court encourage litigants filing petitions for certiorari to address whether plenary consideration of the case is appropriate and discourage detailed discussions on the merits. The respondent in this case followed that advice. Respondent filed a seven-page brief in opposition to the petition for certiorari, of which only four pages dealt with the issue whether a prevailing party's motion for costs constitutes a Federal Rule of Civil Procedure 59(e) motion to alter or amend judgment. Respondent relied almost exclusively on the Fifth Circuit's unanimous en banc decision in *Harcon Barge Co.* v. *D & G Boat Rentals, Inc.*, 784 F. 2d 665 (1986), which this Court had declined to review. 479 U. S. —— (1986). The Fifth Circuit's decision in this case, applying the "bright line rule" of *Harcon*, Pet. for Cert. 26, undoubtedly benefited from full briefing, something the Court today decides is unnecessary for its determination that the Fifth Circuit was wrong. It is my ongoing view that when the Court is considering a summary disposition of a case, it should at a minimum so inform the litigants and invite them to submit supplemental briefs on